

**RULES
OF
TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 0260-2
GENERAL RULES GOVERNING CHIROPRACTIC EXAMINERS**

TABLE OF CONTENTS

0260-2-.01	Definitions	0260-2-.14	Externship Certificate
0260-2-.02	Scope of Practice	0260-2-.15	Disciplinary Actions, Civil Penalties, Screening Panels, Subpoenas, and Assessment of Costs
0260-2-.03	Necessity of Licensure	0260-2-.16	License
0260-2-.04	Qualifications for Licensure	0260-2-.17	Change of Address And/Or Name
0260-2-.05	Procedures for Licensure	0260-2-.18	Mandatory Release of Patient Records
0260-2-.06	Fees	0260-2-.19	Board Members, Officers, Consultants, Records, and Declaratory Orders
0260-2-.07	Application Review, Approval, Denial, Interviews	0260-2-.20	Advertising
0260-2-.08	Examinations	0260-2-.21	Chiropractic Preceptor Program
0260-2-.09	Renewal of License	0260-2-.22	Substantiation of Services
0260-2-.10	Professional Peer Assistance	0260-2-.23	Consumer Right-To-Know Requirements
0260-2-.11	Retirement and Reactivation of License		
0260-2-.12	Continuing Education		
0260-2-.13	Professional Ethics		

0260-2-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Advertising - Includes, but is not limited to business solicitation, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory, or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.
- (2) Applicant - Any individual seeking licensure by the board who has submitted an official application and paid the application fee.
- (3) Board - The Tennessee Board of Chiropractic Examiners.
- (4) Board Administrative Office - The office of the Unit Director assigned to the board located at First Floor, Cordell Hull Bldg., 425 5th Avenue North, Nashville, TN 37247-1010.
- (5) Board Designee - Any person who has received a written delegation of authority from the board to perform board functions subject to review and ratification by the full board where provided by these rules.
- (6) Chiropractic Adjustment - A manual or mechanical intervention that may be administered with a high or low velocity, short or long lever, high or low amplitude, with or without recoil and directed by specific anatomical listings designed to reduce or correct a subluxated unit.
- (7) Chiropractic Physical Therapeutics - A category of a physical agent utilized as ancillary therapy to adjustive procedures which may give additional physiological support to the five (5) components of a subluxation complex preceding or following specific adjustive procedures.
- (8) Closed Files - An administrative action which renders an incomplete or denied file inactive.

(Rule 0260-2-.01, continued)

- (9) Department - Tennessee Department of Health.
- (10) Division - The Division of Health Related Boards, Tennessee Department of Health, from which the board receives administrative support.
- (11) Documentation - Refers to and includes, but is not limited to, notations made by the provider or his designated assistant in the patient record, relevant reports from other providers, electronically obtained and/or stored information and all diagnostic imaging, etc.
- (12) Excessive - That which fails to be substantiated beyond the quantity of procedures customarily performed or utilized by a prudent person similarly trained, skilled and experienced in a specific diagnostic or treatment procedure or technique in question.
- (13) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required application fees.
- (14) Good Moral Character - The quality of being highly regarded in personal behavior and professional ethics.
- (15) He/she Him/her - When “he” appears in the text of these rules, the word represents both the feminine and masculine genders.
- (16) HRB - When the acronym HRB appears in the text of these rules, the HRB represents Health Related Boards.
- (17) License - Document issued to an applicant who successfully completes the licensure process. The license takes the form of an “artistically designed” license as well as other versions bearing an expiration date.
- (18) Manipulation - A passive movement for the purpose of testing joint space mobility and/or a manual intervention utilized for releasing muscles and less contractible structures that have lost elasticity with their effects on joint function, and which is not designed to bring about articular change when locked out of its physiologic joint space and/or range of motion.
- (19) National Board - Means the National Board of Chiropractic Examiners.
- (20) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (21) Registrant - Any person who has been lawfully issued a license.
- (22) Subluxation - When one or the other of two adjacent articular surfaces has lost its normal position, affecting its active, passive or anatomical end range and is classified less than a dislocation. A subluxation complex includes one or more of its five components which may result in a primary, related and/or attending diagnosis.
- (23) Substantiation - Any test, examination, recorded symptom or other observation of the patient (or, in the case of a minor or otherwise legally incompetent person, reported to the provider or his staff by the parent or legal guardian) by the provider and determined by said provider to be useful in arriving at a treating or management diagnosis and/ or the determination of what, how, when, where and why to examine, treat, consult or refer a patient.
- (24) Therapeutic Care - Any approved care of specific chiropractic adjustive procedures utilized in patient care, for the purpose of returning the patient to a stabilized or pre-clinical status.

(Rule 0260-2-.01, continued)

- (25) Use of Title or Description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationary, announcements, business cards, or other means of professional identification.
- (26) Written Evidence - Includes, but is not limited to, written verification from supervisors or other professional colleagues familiar with the applicant's work.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-112, 63-4-114, 63-4-122, and 63-4-123. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002.

0260-2-.02 SCOPE OF PRACTICE.

- (1) Any person who possesses a valid unsuspended and unrevoked license issued by the Board has the right to use the title licensed chiropractic physician. No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a licensed chiropractic physician. The work performed includes offering case management procedures and recommendations for health care and services to the public.
- (2) The Board's interpretation of T.C.A. §63-4-101 (1982 Edition and subsequent promulgated and approved rules) is as follows:
 - (a) Paragraph (b)
 - 1. Examination of the spine and adjacent tissues: Includes orthopedic and neurologic testing, range of motion and muscles testing and diagnostic imagery of the skeletal system, supportive and adjacent tissues that may be revealed in a state of pathology, as a basis for making clinical judgment as to the degree of preparation, adjustment, management and rehabilitation of the human body which is in the opinion of the provider or his/her designated assistant, appropriate for the purpose of correcting nerve interference to a particular muscle, joint, gland, organ, system or other tissue and for correcting articular dysfunction affecting mechanical or muscular imbalance.
 - 2. Chiropractic Clinical Findings: Includes the use of analytical instruments for the purpose of determining vital signs and neurological effects, for evaluation of treatment, for screening in making clinical judgments for case management and the protection of the patient, or to make a proper referral to a particular health specialist for immediate, complete, or supportive care; and furthermore, for recording and reporting to third-party-payers, preparing narratives, giving of depositions and in-court testimony as an expert witness, establishing fees, treatments, procedures, recommendations, and determining impairment ratings.
 - 3. Specific Instrumentation: The use of approved instruments shall include, but not be limited to, perceptual, functional or physiological measurability and must address discriminability, sensitivity, specificity and validity in testing.

(Rule 0260-2-.02, continued)

4. The Board of Chiropractic Examiners does not recognize any one document, guideline, textbook, clinical trail or jured study as the exclusive endorsement for setting “standards of practice.”

(b) Paragraph (c)

1. This paragraph is interpreted to include such supportive care as nutritional evaluation, recommendation, and supplementation; patient management in their mental and physical environment; and due regard for patients concerning diet, hygiene, sanitation and rehabilitation which includes but is not limited to, physical therapy.

(c) Paragraph (d)

1. This subparagraph is interpreted to exclude the use of drugs, whether administered orally or by injection.
2. This subparagraph is interpreted to exclude any incisive surgical procedures;
3. This subparagraph is interpreted to exclude the use of hypodermics for the purpose of injection of any agent or medicine, and to exclude the use of any instrument for the purpose of incision to treat, prevent, cure or relieve a human disease, ailment, defect, complaint or condition;
4. This subparagraph is interpreted to exclude the practices of medicine and osteopathy, distinguishing Chiropractic as a separate and distinct science practicing as a portal of entry primary care physician in accordance with this act;
5. This subparagraph is interpreted as excluding procedures which are not descriptive of the practice of chiropractic as set out in these rules approved by the uniform legislative procedures act;
6. This subparagraph is interpreted to include Diagnostic Imagery of the skeletal system, its supportive and adjacent tissue, but does not include any invasive procedure involving penetration of the skin or oral intake for contrast or opaque studies, however, shall not prohibit access to results of test when ordered, if done by other health professionals authorized to perform these procedures;
7. This subparagraph is interpreted to exclude any avenue of approach other than as authorized by the Tennessee Board of Chiropractic Examiners under this act;
8. This subparagraph is interpreted to exclude any procedure involving penetration of the vaginal or anal orifice, by hand or any other device or to perform diagnostic tests or analysis of body fluids, however, shall not prohibit superficial examination and access to results of test when ordered, if done by other health professionals authorized to perform these test.

(d) Paragraph (e)

1. Training must be performed in chiropractic institutions or institutions that specialize in spinal manipulative therapy. Spinal manipulation is a highly skilled maneuver that requires adequate training. Four hundred (400) hours of classroom instruction and eight hundred (800) hours of supervised clinical training are considered a minimum level of education to properly administer the techniques.

(Rule 0260-2-.02, continued)

2. Spinal manipulation must be performed by hand or with the use of instruments such as Activator, Grostic, Pettibon, or Sweat instrumentation.
3. Manipulation moves the spinal segments beyond their normal range of motion for the correction of nerve interference and articular dysfunction, but without exceeding the limits of anatomical integrity.
4. A chiropractic diagnosis is necessary to properly establish the indications and contraindications before the administration of the spinal manipulation procedure.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-114, 63-4-120, 63-4-121, and 63-4-122. **Administrative History:** Original rule filed December 5, 1978; effective April 2, 1979. Repeal and new rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed October 24, 2002; effective January 7, 2003.

0260-2-.03 NECESSITY OF LICENSURE.

- (1) Prior to the engagement of the practice of chiropractic in Tennessee, a person must hold a current Tennessee license or temporary license issued pursuant to rule 0260-2-.14.
- (2) It is unlawful for any person who is not licensed in the manner prescribed in T.C.A. §63-4-101 et seq. to represent himself/herself as a licensed chiropractor or to hold himself/herself out to the public as being licensed by means of using a title on signs, mailboxes, address plates, stationary, announcements, telephone listings, calling cards, or other instruments of professional identification.
- (3) Chiropractic is one of the healing arts and as such the practice of which is restricted to those persons credentialed by the board. Persons engaging in the practice of chiropractic without being credentialed are in violation of T.C.A. §63-1-123.
- (4) Licensed chiropractic physicians by virtue of their license shall be qualified to operate x-ray equipment and order examinations of Imagery for diagnostic purposes pursuant to T.C.A. §63-4-119.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-123, 63-4-101, 63-4-106, 63-4-107, 63-4-119, 63-4-120, and 63-4-123. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996.

0260-2-.04 QUALIFICATIONS FOR LICENSURE.

- (1) To qualify for licensure by examination, a chiropractic physician must:
 - (a) Provide evidence that he/she is well regarded in moral character and professional ethics (rule 0260-2-.05(l)(g)).
 - (b) Education:
 1. Provide proof of attendance at a chiropractic college for four (4) school years of not less than nine (9) months each and graduation from a chiropractic college having status with the Commission on Accreditation of the Council on Chiropractic Education, or graduation from an international chiropractic college approved by the Board; and

(Rule 0260-2-.04, continued)

2. If not included in the documentation required in part (1) (b) 1., submit proof of additional parachiropractic education as follows:
 - (i) For applicants matriculating in a chiropractic college prior to year 2000, the applicant must provide a transcript of grades showing a minimum of two (2) full academic years of college or university work of at least sixty (60) semester hours or its equivalent from an accredited institution.
 - (ii) For applicants matriculating in a chiropractic college in year 2000 and beyond, proof that a bachelor's level education or its equivalent has been obtained from an accredited college or university.
 3. Educational requirements must be completed prior to the date of examination.
- (c) Examination. Evidence of completing the National Chiropractic Board Examination, pursuant to rule 0260-2-.08 (1).
- (2) To qualify for licensure by criteria (reciprocity), a chiropractic physician must:
- (a) Provide evidence that he/she is well regarded in moral character and professional ethics as provided in subparagraph 0260-2-.05 (1) (g).
 - (b) Possess a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years.
 - (c) Provide documentation from the state or other jurisdiction of prior practice attesting to the length of time in practice, along with any disciplinary action taken against the license while in practice.
 - (d) Provide proof of successful completion of the Special Purposes Examination for Chiropractors (SPEC) as administered by the National Board or its successor.
 - (e) Complete the educational requirements in subparagraph (1) (b) of this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-105, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed August 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001.

0260-2-.05 PROCEDURES FOR LICENSURE. To become licensed as a chiropractic physician in Tennessee, a person must comply with the following procedures and requirements:

- (1) Licensure by Examination
 - (a) An application packet shall be requested from the board's administrative office.
 - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all fees required by the form and these rules to the board's administrative office.

(Rule 0260-2-.05, continued)

- (c) Applications will be accepted throughout the year, and applicants shall be scheduled to take the examinations required in Rule 0260-2-.08.
 - (d) An applicant shall submit with his/her application a passport type photograph. The photo must be signed by the applicant.
 - (e) It is the applicant's responsibility to request a transcript pursuant to T.C.A. §63-4-108(3) which must be submitted directly from the school to the board's administrative office.
 - (f) It is the applicant's responsibility to request that documentation be submitted, directly from the applicant's chiropractic school to the board's administrative office, of graduation from a chiropractic educational institution in compliance with T.C.A. §63-4-108(2). The chiropractic institution granting the degree of Doctor of Chiropractic must have been accredited with the commission on accreditation of the council on chiropractic education or its successor at the time the degree was granted. The documentation must show that the degree has been conferred.
 - (g) An applicant shall submit evidence of good moral character. Such evidence shall be one recent (within the preceding 12 months) original letter from a licensed chiropractic physician attesting to the applicant's personal character and professional ethics on the signator's letterhead.
 - (h) An applicant shall request that his/her National Board scores be submitted directly to the Board's administrative office from the testing agency.
 - (i) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.
 - 2. The denial of licensure application by any other state or the discipline of licensure in any state.
 - 3. Loss or restriction of licensure.
 - 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory, common, or case law.
 - (j) If an applicant holds or has ever held a license to practice as a chiropractic physician in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of license) from each such licensing board which indicates the applicant holds or held an active license and whether it is in good standing presently or was at the time it became inactive.
 - (k) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both version must be submitted.
 - (l) Personal resumes are not acceptable and will not be reviewed.
 - (m) Application review and licensure decisions shall be governed by rule 0260-2-.07.
- (2) Licensure by Criteria (Reciprocity).

(Rule 0260-2-.05, continued)

- (a) An application packet shall be requested from the board's administrative office.
- (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all fees required by the form and these rules to the board's administrative office.
- (c) Applications will be accepted throughout the year. Supporting documents requested in these instructions must be received in the board office within 60 days of receipt of the application by the Board Administrative Office or the file will be deemed abandoned and closed.
- (d) An applicant shall submit with his/her application a signed and notarized passport type photograph taken within the preceding 12 months. (The photo is to be signed by the applicant and the notary seal must be stamped on the back of the photograph).
- (e) An applicant shall submit evidence of good moral character. Such evidence shall be one recent (within the preceding 12 months) original letter from a licensed chiropractic physician attesting to the applicant's personal character and professional ethics on the signator's letterhead.
- (f) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - 2. The denial of licensure application by any other state or the discipline of licensure in any state.
 - 3. Loss or restriction of licensure.
 - 4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity, or any other civil action remedy recognized under the country's or state's statutory, common or case law.
- (g) If an applicant holds or has ever held a license to practice as a chiropractic physician in another state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of endorsement (verification of license) from the licensing board which indicates the applicant holds or held an active license and whether it is in good standing presently or was at the time it became inactive. The applicant must be licensed in at least one (1) other state for a period of two (2) full years.
- (h) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
- (i) Personal resumes are not acceptable and will not be reviewed.
- (j) Application review and licensure decisions shall be governed by rule 0260-2-.07.
- (k) Examination of licensure by criteria (reciprocity) applicants.

(Rule 0260-2-.05, continued)

1. An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years will not be required to have passed Parts 1, 2, 3, and 4 of the National Board Examination.
 2. An individual who possesses a valid unrestricted license to practice chiropractic in another state or other regulated jurisdiction for a period of two (2) full years shall provide proof of successful completion of the Special Purposes Examination for Chiropractors (SPEC) as administered by the National Board or its successor.
- (l) All other reciprocity applicants will be required to have passed the National Board as a pre-requirement pursuant to rule 0260-2-.08.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-108, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts of 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Amendment filed December 8, 1989; effective January 22, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 13, 2000; effective February 26, 2001.

0260-2-.06 FEES.

- (1) The fees are as follows:
- (a) Application and Criteria (Reciprocity) fee - A fee to be paid by all applicants including those seeking licensure by reciprocity. It must be paid each time an application for licensure is filed.
 - (b) Late Renewal fee - A non-refundable fee to be paid when an individual fails to timely renew a license.
 - (c) Renewal fee - A non-refundable fee to be paid by all licensees. This fee also applies to individuals who reactivate a retired or lapsed license.
 - (d) Replacement License or Certificate fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license or renewal certificate.
 - (e) State Regulatory fee - To be paid by all individuals at the time of application and with all renewal applications.
 - (f) Externship Certificate fee - To be paid by all individuals at the time of application who are requesting to be issued an externship certificate.
- (2) All fees shall be established by the board. Fees may be reviewed and changed at the discretion of the board. except as otherwise provided by statute.
- (3) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division of Health Related Boards. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Board of Chiropractic Examiners.
- (4) Fee Schedule:
- | | Amount |
|--|--------|
|--|--------|

(Rule 0260-2-.06, continued)

(a)	Application	\$350.00
(b)	Late Renewal	50.00
(c)	Renewal (biennial)	275.00
(d)	Replacement License or Certificate	75.00
(e)	Criteria (Reciprocity)	350.00
(f)	Externship Certificate	100.00
(g)	State Regulatory (biennial)	10.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-107, 63-1-108, 63-1-118, 63-4-103, 63-4-106, 63-4-107, 63-4-108, 63-4-110, 63-4-111, 63-4-112, 63-4-120, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 17, 1996; effective March 1, 1997. Amendment filed March 20, 1997; effective June 3, 1997. Amendment filed May 6, 1999; effective July 18, 1999. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed March 18, 2003; effective June 1, 2003.

0260-2-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.

- (1) An application packet shall be requested from the board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the board's Unit Director, provided that approval of all applications is made and ratified by the board.
- (3) If an application is incomplete when received in the board's administrative office, the applicant will be notified of the deficiency. The requested information must be received in the board's administrative office within (60) days of the request.
- (4) If the requested information is not received within (60) days of the request, the application file shall become inactive and the applicant notified. No further board action will take place until the application is completed pursuant to the rules governing the application process.
- (5) If a completed application has been denied and ratified as such by the board the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the board's administrative office by certified mail. return receipt requested. Specific reasons for denial will be stated such as incomplete information, unofficial records, examination failure or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§4-5-301, et seq.) to contest the denial and the procedure necessary to accomplish that action.
 - (c) An applicant has a right to a contested case hearing only if the licensure denial is based on subjective or discretionary criteria.

(Rule 0260-2-.07, continued)

- (d) An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the board's administrative staff, the licensure application can not be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the board within 30 days of the receipt of the notice of denial from the board.
- (6) The board or its designee may delay a decision on eligibility to take the examination for any applicant for whom the board wishes additional information for the purpose of clarifying information previously submitted. This request is to be in writing and sent by certified mail, return receipt requested. The applicant's response must be made and received at the Board's Administrative Office within 60 days from the date of receipt of the notice by the applicant or the application will be closed.
- (7) If the board finds it has erred in the issuance of a license, the board will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within 30 days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 0260-2-.07(5).
- (8) Abandonment of Application
 - (a) An application shall be deemed abandoned and closed if the application has not been completed by the applicant within 60 days after it was initially submitted and reviewed.
 - (b) The above action must be ratified by the board.
 - (c) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.
- (9) If an applicant requests an entrance for licensure, and wishes to change that application to a different type of entrance, a new application, with supporting documents and appropriate fee(s) must be submitted, i.e., reciprocity to examination.
- (10) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board, a Board member, or the Board Designee for an interview before final licensure may be granted. The interviews, which may be required, are considered part of the licensure process.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-301, 63-4-102, 63-4-103, 63-4-106, 63-4-107, 63-4-108, 63-4-109, 63-4-110, 63-4-111, 63-4-112, 63-4-114, 63-4-115, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed April 12, 2002; effective June 26, 2002. Amendment filed August 26, 2002; effective November 9, 2002.

0260-2-.08 EXAMINATIONS.

- (1) The examination of applicants for a license to practice chiropractic will consist of the National Board Examination as directed by the Board. Each applicant must successfully pass all examinations before receiving a license to practice chiropractic unless this requirement is specifically waived pursuant to T.C.A. § 63-4-111.

- (2) A score of 375 on each part of the National Board of Chiropractic Examiners' Examinations and Physiotherapy shall be the minimum passing score for each applicant.

Authority: T.C.A. §§4-5-1011, 4-5-202, 4-5-204, 4-5-209, 63-1-107, 63-1-108, 63-4-103, 63-4-106, 63-4-107, 63-4-109, 63-4-110, 63-4-111, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed April 19, 1983; effective May 19, 1983. Amendment filed October 22, 1987; effective December 6, 1987. Amendment filed April 25, 1989; effective July 29, 1989. Amendment filed August 30, 1990; effective October 14, 1990. Repeal and new rule filed December 28, 1995; effective March 12, 1996. Amendment filed March 20, 1997; effective June 3, 1997. Amendment filed May 29, 1998; effective August 12, 1998. Amendment filed December 13, 2000; effective February 26, 2001.

0260-2-.09 RENEWAL OF LICENSE.

- (1) Renewal Application
 - (a) The due date for license renewal is the expiration date indicated on the licensee's initial certificate of registration or renewal certificate.
 - (b) Methods of Renewal
 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org
 2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
 - (c) A license issued pursuant to these rules is renewable by the expiration date. To be eligible for renewal an individual must submit to the Division of Health Related Boards on or before the expiration date the following:
 1. A completed and signed renewal application form.
 2. The renewal and state regulatory fees as provided in rule 0260-2-.06.
 - (d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed pursuant to rule 1200-10-1-.10.
- (2) Reinstatement of an Expired License - Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:
 - (a) Payment of all past due renewal fees and state regulatory fees; and
 - (b) Payment of the late renewal fee, pursuant to Rule 0260-2-.06; and
 - (c) Submission of evidence of completion of continuing education requirements pursuant to rule 0260-2-.12.
- (3) Licensure renewal and reinstatement applications shall be treated as licensure applications and review decisions shall be governed by this rule and rule 0260-2-.07.
- (4) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0260-2-.15.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-1-108, 63-4-103, 63-4-106, 63-4-112, and 63-4-114.
Administrative History: Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed April 12, 2002; effective June 26, 2002. Amendment filed September 27, 2002; effective December 11, 2002.

0260-2-.10 PROFESSIONAL PEER ASSISTANCE.

(Rule 0260-2-.10, continued)

- (1) The Board has the prerogative to refer for assessment(s), and if needed, treatment for presenting problem(s), any licensee or applicant voluntarily or involuntarily coming before the Board.
- (2) As an alternative to disciplinary action, or as part of a disciplinary action, the Board may utilize the services of a professional assistance program, as approved by the Board, for situations regarding licensee substance abuse, chemical abuse, or lapses in professional and/or ethical judgements. Information regarding persons entering the program upon referral by this Board shall be confidential.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-136, 63-4-106, 63-4-114, and 63-4-115. **Administrative History:** Original rule filed September 13, 2002; effective November 27, 2002.

0260-2-.11 RETIREMENT AND REACTIVATION OF LICENSE.

- (1) A person who holds a current license and does not intend to practice as a “licensed chiropractic physician” may apply to convert an active license to retired status. An individual who holds a retired license will not be required to pay the renewal fee.
- (2) A person who holds an active license may apply for retired status in the following manner:
 - (a) Obtain form, complete, and submit to the board’s administrative office an affidavit of retirement form.
 - (b) Submit any documentation which may be required to the board’s administrative office.
- (3) Licensure holders whose license has been retired may re-enter active status by doing the following:
 - (a) Submit a written request for licensure reactivation to the board’s administrative office.
 - (b) Pay the licensure renewal fees and state regulatory fees as provided in rule 0260-2-.06. If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the board will require payment of the late renewal fee and past due renewal fees.
- (4) Licensure reactivation applications shall be treated as licensure applications and review decisions shall be governed by rule 0260-2-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, and 63-4-112. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0260-2-.12 CONTINUING EDUCATION.

- (1) Basic requirements - The Board of Chiropractic Examiners requires each licensee registered with the board to complete 12 clock hours of board approved continuing education for each calendar year.
 - (a) No prior approval is required for continuing education courses conducted by the American Chiropractic Association, the International Chiropractors Association, the Tennessee Chiropractic Association, or the Tennessee Chiropractic Society.
 - (b) Prior approval is required for all course providers not mentioned in subparagraph (1) (a) of this rule, and may be obtained by submitting the following information to the board’s administrative office at least thirty (30) days prior to the scheduled date of the course:
 1. A course description or outline; and

(Rule 0260-2-.12, continued)

2. Names of all lecturers; and
3. Brief résumé of all lecturers; and
4. Number of hours of educational credit requested; and
5. Date of course; and
6. Copies of materials to be utilized in the course; and
7. How verification of attendance is to be documented.

(2) New licensee requirements

- (a) A six (6) hour Board approved course in risk management, sexual/professional boundaries, and Tennessee statutory and regulatory chiropractic jurisprudence shall constitute part of the twelve (12) clock hour continuing education requirement in paragraph (1) of this rule for the first calendar year that continuing education is required.
- (b) New licensee by examination - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraphs 0260-2-.04 (1) and 0260-2-.08 (1), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which the applicant is approved for licensure.
- (c) New licensee by criteria (reciprocity) - Submitting proof of successful completion of all education and examination requirements necessary for licensure in Tennessee, pursuant to paragraph 0260-2-.04 (2), shall be considered proof of sufficient preparatory education and training to constitute continuing education credit for the calendar year in which such education and training requirements for licensure in another state were completed.

(3) Documentation

- (a) Each licensee must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four years from the end of the calendar year in which the continuing education was acquired. This documentation must be produced for inspection and verification, if requested in writing by the board during its verification process. The board will not maintain continuing education files.
- (b) The individual must, within 30 days of a request from the board, provide evidence of continuing education activities. Such evidence must be by submission of one or more of the following:
 1. Certificates verifying the licensee's attendance at continuing education program(s). The certificate must include the following: continuing education program's sponsor, date, clock hours awarded (continuing education units must be converted to clock hours), program title, licensee's name, license number and social security number.
 2. An original letter on official stationery from the continuing education program's sponsor indicating, date, clock hours awarded (CE units must be converted to clock hours), program title, licensee's name, license number and social security number.

(Rule 0260-2-.12, continued)

- (c) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic. If the board determines that the training can not be considered appropriate continuing education, the individual will be given 90 days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (4) Continuing education credit will not be allowed for the following:
 - (a) Regular work activities, administrative staff meetings, case staffing/reporting, etc.
 - (b) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.
 - (c) Independent unstructured or self-structured learning.
 - (d) Training specifically related to policies and procedures of an agency.
- (5) Continuing Education for Reactivation or Reinstatement of Retired, Revoked, or Expired Licensure.
 - (a) Reactivation of Retired Licensure
 - 1. An individual whose license has been retired for one year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reactivation. Those hours will be considered replacement hours and can not be counted toward meeting the calendar year end requirement.
 - 2. Any individual requesting reactivation of a license which has been retired for more than one year must submit, along with the reactivation request, verification which indicates the attendance and completion of 12 hours of continuing education for the year in which the license is to be reactivated. The continuing education hours must have been begun and successfully completed before the date of reactivation.
 - (b) Reactivation of Revoked Licensure – No person whose license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as that for those licenses which are active. The required clock hours of continuing education must have been begun and successfully completed before the date of reactivation.
 - (c) Reactivation or Reinstatement of Expired Licensure – No person whose license has expired may be reactivated or reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reactivation or reinstatement must equal the hours required, had the license remained in an active status, and must have been begun and successfully completed before the date of reactivation or reinstatement.
 - (d) Continuing education hours obtained as a prerequisite for reactivating or reinstating a license may not be counted toward the calendar year requirement.
- (6) Violations
 - (a) Any licensee who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed

(Rule 0260-2-.12, continued)

continuing education hours with the required documentation, may be subject to disciplinary action.

- (b) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.
- (c) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.
- (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (6) (b) above may be subject to disciplinary action.
- (e) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

(7) Waiver of Continuing Education

- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education if it can be shown to the board that compliance was beyond the physical capabilities of or would constitute undue hardship to the person seeking the waiver.
- (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the board's administrative office:
 - 1. A written request for a waiver which specifies what requirements is sought to be waived and written and signed explanation of the reason for the request.
 - 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the board.
- (c) A waiver approved by the board is effective only for the calendar year for which the waiver is sought.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-106, 63-4-112, 63-4-114, 63-4-115, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 26, 2002; effective November 9, 2002. Amendment filed September 13, 2002; effective November 27, 2002. Amendment filed September 27, 2002; effective December 11, 2002.

0260-2-.13 PROFESSIONAL ETHICS. Immoral, unprofessional, unethical, or dishonorable conduct shall include, but not be limited to, the following:

- (1) Conduct designed to, or likely to, deceive, or harm the public.
- (2) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of chiropractic.
- (3) The intentional or negligent use of any false, fraudulent or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice in connection with any of the licensing requirements of T.C.A. §§63-4-101, et seq.

(Rule 0260-2-.13, continued)

- (4) Advertising or promoting, waiving, abrogating, or rebating the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligations for payment thereunder, unless the insurer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness. Advertising or promoting the same must include the intent of notice to the insurer and the record must include proof to the actual notice to the appropriate third party. If no advertising or promotion is given to any patient in the practice, the provider may excuse any portion or all fees to insure that all patients may receive all necessary procedures, if unable, due to circumstances, pay for their services.
- (5) Grossly excessive use of examinations of a patient or a pattern of clearly excessive use of examinations of patients when patients are charged for this service or reimbursement of the examination(s) is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated, finding(s) or condition(s) of the patient(s) which warrant(s) the use of examination(s) for a chiropractic diagnosis.
- (6) Grossly excessive use of care and treatment of a patient or a pattern of clearly excessive use of care and treatment of patients when patients are charged for this service or reimbursement of payment for the care and treatment is requested from a third party. The conduct mentioned herein is presumed to have occurred when there is no documented, substantiated finding(s) or condition(s) of the patient(s) based on a chiropractic diagnosis which warrant(s) the treatment(s) and care performed.
- (7) A chiropractic physician shall not overutilize or otherwise improperly use ionizing radiation. In order to avoid overutilization of ionizing radiation, a chiropractic physician shall observe the following guidelines:
 - (a) Routine radiography of any patient shall not be performed without due regard for clinical need;
 - (b) Subsequent radiographic evaluation of the patient shall not be undertaken without significant observable clinical indication, as determined by the treating chiropractic physician. The significant observable indication required by this subsection shall not apply to reevaluations of the spinal subluxation complex. The spinal subluxation complex is determined to be a significant observable indication.
- (8) Sexual misconduct.
 - (a) Licensees shall not engage in sexual harassment. Sexual harassment is sexual solicitation, physical advances or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the licensee's activities or roles as a licensee and that either is unwelcome, offensive, or creates a hostile workplace environment and the licensee knows or is told this, or is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.
 - (b) Licensees shall not engage in sexual relationships with current patients, employees, or co-workers because such relationships are likely to impair judgement or be exploitative.
 - (c) Licensees shall not accept as patients persons with whom they have engaged in sexual intimacies.
 - (d) Licensees shall not engage in sexual intimacies with a former patient for at least six (6) months after cessation or termination of professional services.

(Rule 0260-2-.13, continued)

- (e) Licensees must respect a patient's dignity at all times and should provide appropriate gowns and private facilities for dressing, undressing, and examination. A licensee should not be present in the room when a patient is dressing or undressing.
- (f) Licensees may have a chaperone present during examination for the protection of both the patient and the licensee. A licensee should refuse to examine sensitive parts of the patient's body without a chaperone present.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-401, 63-4-106, and 63-4-114. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed April 14, 2003; effective June 2003.

0260-2-.14 EXTERNSHIP CERTIFICATE

- (1) Externship Certificate Application - An application for an externship certificate will be considered only after an individual has filed an application for licensure and the file is complete and the applicant has been accepted for the next scheduled examination. The externship certificate fee shall accompany the application for an externship certificate.
 - (a) The applicant for an externship certificate and the chiropractic/supervisor shall complete and sign their portion of the form which shall include the supervisor's license number, the name of the clinic/office, address and phone number where the extern will be practicing.
 - (b) The chiropractic/supervisor and applicant for an externship certificate must be interviewed by a board member, and by affixing their signatures affirm and attest that they will each hold responsibility to the other and the rules and regulations governing the practice of chiropractic in Tennessee.
 - (c) It will be the responsibility of the chiropractic/supervisor to mail the application and fee to the interviewing board member for his/her signature if the interview is conducted by telephone. Notwithstanding, the interviewing board member, after completion, will submit the application for registration to the board's Unit Director.
- (2) Conditions for Practicing Under an Externship Certificate.
 - (a) An extern must have approval from the chiropractic/supervisor of the findings/diagnosis and case management plan of all patients assigned for examination and care before commencing treatment. With this approval, an extern will be allowed to perform all diagnostic tests and therapeutic interventions as provided in T.C.A. § 63-4-101.
 - (b) Collection of fees for services and filing claims to third-party-payers must be in the name of the chiropractic/ supervisor (attending physician).
 - (c) Externship is to last no longer than three hundred sixty-five (365) days from the date of certificate issuance. Applicants who provide proof of illness or hardship that hindered their ability to complete exam requirements as provided in Rule .08 of this chapter may, at the board's discretion, be allowed a second year of externship upon payment of a second externship certificate fee.
 - (d) If the extern fails to meet qualifications for a permanent license within the time period provided in subparagraph (2) (c) the Board's Unit Director will issue a letter to be sent by certified mail, return receipt requested, to the chiropractic/supervisor and extern which will serve as notification that the externship certificate becomes invalid and expired and must be returned within fourteen (14) days to the Board's administrative office. The extern must cease to practice upon receiving this notification.
 - (e) In the event of a vacation or a prolonged illness the chiropractic/supervisor must make arrangements for continued supervision by a licensed chiropractic physician and submit a letter from the new chiropractic/ supervisor, addressed to the previous supervisor, stating that he/she will take the responsibility as previously outlined for the supervision and forward a copy of said letter to Board's administrative office.
 - (f) When the externship certificate becomes invalid for any reason or expires, it must be returned to the Board office within fourteen (14) days. The supervisor shall be responsible for monitoring this requirement, and the Board will notify the supervisor when the externship certificate become invalid.

(Rule 0260-2-.14, continued)

- (3) Supervision - For purposes of this rule, supervision is defined as the direct oversight of the extern by a Tennessee licensed chiropractic physician. The chiropractic/supervisor must be available for approval of examination findings/diagnosis and management plan, including subsequent changes that may alter the management/treating program. The chiropractic/supervisor must conduct and evaluate case studies with the extern on each visit of interactive reassessment throughout the management/treating program of each patient. The supervisor shall be on the facility premises while the extern is conducting patient care.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-103, 63-4-106, 63-4-112, 63-4-114, 63-4-120, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed December 13, 2000; effective February 26, 2001.

0260-2-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, SCREENING PANELS, SUBPOENAS, AND ASSESSMENT OF COSTS.

- (1) Upon a finding by the board that a chiropractic physician has violated any provision of the T.C.A. §§63-4-101, et seq., or the rules promulgated thereto, the board may impose any of the following actions separately or in any combination deemed appropriate to the offense.
 - (a) Advisory Censure - This is a written action issued to the chiropractic physician for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Formal censure or reprimand - This is a written action issued to a chiropractic physician for one time and less severe violation(s). It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a chiropractic physician on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.
 - (d) Licensure Suspension - This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the reentry of the individual into the practice under the licensure previously issued.
 - (e) Licensure Revocation - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the licensure previously issued. If revoked, it relegates the violator to the status he possessed prior to application for licensure. However, the board may in its discretion allow the reinstatement of a revoked certificate or license upon conditions and after a period of time which it deems appropriate.

No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one year unless otherwise stated in the board's revocation order.
 - (f) Conditions - These include any action deemed appropriate by the board to be required of an individual disciplined during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked certificate or license.
 - (g) Civil penalty - A monetary disciplinary action assessed by the board pursuant to paragraph (2) of this rule.

(Rule 0260-2-.15, continued)

(2) Civil Penalties

- (a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to Public Chapter 389, Acts of 1989.

(b) Schedule of Civil Penalties

1. A Type A civil penalty may be imposed whenever the board finds the person who is required to be licensed or certified by the board is guilty of a willful and knowing violation of the Chiropractic Examiners Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, a Type A civil penalty shall include, but not be limited to, a person who willfully and knowingly is or was practicing as a chiropractic physician without a license from the board.
2. A Type B civil penalty may be imposed whenever the board finds the person required to be licensed or certified by the board is guilty of a violation of the Chiropractic Examiners Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of clients or the public.
3. A Type C civil penalty may be imposed whenever the board finds the person required to be licensed or certified by the board is guilty of a violation of the Chiropractic Examiners Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the clients or public, nor directly impact their care, but have only an indirect relationship to client care or the public.

(c) Amount of Civil Penalties

1. Type A civil penalties shall be assessed in the amount of not less than \$500 and not more than \$ 1000.
2. Type B civil penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. Type C civil penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the board during consideration of any Notice of Charges. In addition, the board may, upon good cause shown, assess type and amount of civil penalty which was not recommended by the Division.

(Rule 0260-2-.15, continued)

3. In assessing the civil penalties pursuant to these rules the board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
 4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of T.C.A. Title 4, Chapter 5.
- (3) Screening Panels - Any screening panel(s) established pursuant to T.C.A. § 63-4103:
- (a) Shall have concurrent authority with the Board members and any individual chiropractor designated by the Board pursuant to rule 0260-2-.19 (7), to do the acts enumerated therein and subject to the conditions contained therein.
 1. A Screening panel(s) comprised of three (3) or more persons shall elect a chairperson prior to convening to conduct business. The screening panel(s) shall include at least one (1) but no more than three (3) licensed chiropractors who may be members of the board or may serve voluntarily or through employment by or under contract with the board.
 2. A Screening panel(s) comprised of two (2) or more persons is required to conduct the informal hearings authorized in subparagraph (b) immediately below.
 - (b) After review of a complaint by the Board's consultant, or after completion of an investigation by the Division, a screening panel may upon request of either the state, or the licensee who is the subject of an investigation, or upon agreement of both the licensee and the state, conduct a non-binding informal hearing and make recommendations as a result thereof as to what, if any, terms of settlement of any potential disciplinary action are appropriate.
 1. Neither the Rules of Civil Procedure, the rules of Evidence or Contested Case Procedural Rules under the Administrative Procedures Act shall apply in informal hearings before the screening panels(s).
 - (i) Evidence may be presented or received in any manner and in whatever order agreed upon by the parties.
 - (ii) Prior to convening the panel and in the absence of an agreement of the parties, the screening panel chairperson shall determine the manner and order of presentation of evidence.
 2. Informal hearings may be conducted without the participation of the licensee who is the subject of the investigation.
 3. A licensee who is the subject of an investigation being considered by a screening panel cannot be compelled to participate in any informal hearing.

(Rule 0260-2-.15, continued)

4. It is not required that prior or subsequent notice of any informal hearing be given to any licensee who is the subject of an investigation being considered by a screening panel.
5. Proposed settlements reached as a result of any informal hearing will not become binding and final unless they are:
 - (i) Approved by a majority of the members of the screening panel which issued them; and
 - (ii) Agreed to by both the Department of Health, by and through its attorney(s), and the licensee; and
 - (iii) Subsequently presented to and ratified by the Board or a duly constituted panel of the Board.

(4) Subpoenas

- (a) Purpose - Although this rule applies to persons and entities other than chiropractors, it is the Board's intent as to chiropractors that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly proscribed. Such power shall not be used by the division or board investigators to seek other incriminating evidence against chiropractors when the division or board does not have a complaint or basis to pursue such an investigation. Thus, unless the division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, then no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

- (i) For Investigative Subpoenas - shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, that a violation of the Chiropractic Practice Act or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or items to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

(Rule 0260-2-.15, continued)

2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the board, or any duly appointed or elected chairperson of any panel of the board, or any screening panel, and any hearing officer, arbitrator or mediator.

(c) Procedures

1. Investigative Subpoenas

- (i) Investigative subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators, and its legal staff.

- (ii) An applicant for such a subpoena must either orally or in writing notify the Board Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:

- (I) The time frame in which issuance is required so the matter can be timely scheduled; and

- (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the division or board.

- I. In no event shall such subpoena be broadly drafted to provide investigative access to chiropractic records of other patients who are not referenced either in the notice of charges or a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or board consideration of a chiropractor's conduct, act, or omission; and

- (III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and

- (IV) The name and address of the person for whom the subpoena is being sought, or who has possession of the items being subpoenaed.

- (iii) The Board's Unit Director shall cause to have the following done:

- (I) In as timely a manner as possible arrange for either an elected officer of the board, or any screening panel, or any hearing officer, arbitrator or mediator to preside and determine if the subpoena should be issued; and

- (II) Establish a date, time and place for the proceedings to be conducted and notify the presiding officer, the applicant and the court reporter; and

- (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:

- I. Preserve a verbatim record of the proceeding; and

(Rule 0260-2-.15, continued)

- II. Prevent the person presiding over the proceedings and/or signing the subpoena from being allowed to participate in any manner in any disciplinary action of any kind formal or informal which may result which involves either the person or the documents or records for which the subpoena was issued.

(iv) The Proceedings

(I) The applicant shall do the following:

- I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
- II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
- III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought if that location is known; and
 - C. A brief, general description of any items to be produced pursuant to the subpoena; and
 - D. The date, time and place for compliance with the subpoena.
- IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.

(v) The Presiding Officer shall do the following:

- (I) Be selected only after assuring the Board Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
- (II) Commence the proceedings and swear all necessary witnesses; and
- (III) Hear and maintain the confidentiality, if any, of the evidence presented at the proceedings; and
- (IV) Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and

(Rule 0260-2-.15, continued)

- (V) Determine based solely on the evidence presented in the proceedings whether probable cause exists and if so, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry; and
 - (VI) Sign the subpoena as ordered to be issued; and
 - (VII) Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.
- 2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case hearing pursuant to Title 4, Chapter 5 of the Tennessee Code Annotated, this definition shall not apply. All such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.
- (d) Subpoena Forms
 - 1. All subpoena shall be issued on forms approved by the Board.
 - 2. The subpoena forms may be obtained by contacting the Board's Administrative Office.
- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of procedure for contested cases of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.
- (5) Assessment of Costs - The imposition of a requirement that any person against whom sanctions have been imposed as a result of a disciplinary action pay the actual and reasonable costs of the prosecution of the case. When the Board, in any final order, requires the "payment of costs", that requirement includes payment of the following:
 - (a) All costs attributed to and assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution.
 - (b) All costs assessed against the Board by the Division for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter.

Authority: T.C.A. §§4-5-101, 4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 4-5-311, 63-1-117, 63-1-134, 63-4-102, 63-4-103, 63-4-104, 63-4-106, 63-4-114, and 63-4-115. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Notice of withdrawal to rule 0260-2-.15(4)(c) filed and effective November 23, 1999. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 14, 1999; effective February 22, 2000. Amendment filed August 26, 2002; effective November 9, 2002.

0260-2-.16 LICENSE.

- (1) Display of License - Every person licensed by the board in this state shall display his/her license in a conspicuous place in his/her office and, whenever required, exhibit such license to the board or its authorized representatives.
- (2) Replacement License - A license holder whose “artistically designed” license has been lost or destroyed may be issued a replacement document upon receipt of a written request in the board administrative office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the required fee pursuant to rule 0260-2-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-109, and 63-4-106. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0260-2-.17 CHANGE OF ADDRESS AND/OR NAME.

- (1) Change of Address - Each person holding a license who has had a change of address or place of employment, shall file in writing with the board his/her current address, giving both old and new addresses. Such requests shall be received in the board's administrative office no later than 30 days after such change is effective and must reference the individual's name, profession, and license number.
- (2) Change of Name - An individual registered with the board shall notify the board in writing within 30 days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual's profession, board, and license number.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-108, and 63-4-106. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996

0260-2-.18 MANDATORY RELEASE OF PATIENT RECORDS.

- (1) Upon request from a patient or the patient's authorized representative, an individual registered with this board shall provide a complete copy of the patient's records, x-rays or summary of such records which were maintained by the provider.
- (2) It shall be the provider's option as to whether copies of the records or a summary will be given to the patient.
- (3) Requests for records shall be honored by the provider in a timely manner and the chiropractic physician shall be entitled to charge a reasonable cost for copying these records.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, and 63-4-106. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0260-2-.19 BOARD MEMBERS, OFFICERS, CONSULTANTS, RECORDS, AND DECLARATORY ORDERS.

- (1) Description of Organization
 - (a) The Board of Chiropractic Examiners is composed by law of seven members appointed by the governor to staggered terms of five (5) years. Each member shall serve until a successor is appointed.
 - (b) The composition of the board shall include five (5) licensed chiropractic physicians who are residents in Tennessee and have been actively engaged in practice of their profession in Tennessee for a period of at least five (5) years; and two (2) consumer members who are not affiliated with the practice of chiropractic.
 - (c) Appointments are made from a list of qualified candidates by the governor.
- (2) Purpose of the Board
 - (a) The board is charged by law with the responsibility of regulating the practice of chiropractic in order to protect the citizens of Tennessee, additionally;
 - (b) The board, by formulating and administering examinations, credentializes candidates for licensure and continues this credentialization process by approving educational seminars for

(Rule 0260-2-.19, continued)

licensees in appropriate subject material, or specific educational requirements for an individual licensee as conditions that may be appropriate as the results of a censure, reprimand or action taken in a formal hearing conducted or ratified by the board.

(3) Board Meetings

- (a) The time, place, and frequency of board meetings shall be at the discretion of the board, except at least one meeting shall be held annually.
- (b) Special meetings are called at the discretion of the board president or at the written request from four (4) members of the board.
- (c) Four members of the board shall at all times constitute a quorum.
- (d) All meetings of the board shall be open to the public.

(4) The board shall elect from its members the following officers:

- (a) President - who shall preside at all board meetings, appoint committees and correspond with other board members when appropriate.
- (b) Vice President - whose duties will be to preside at a particular meeting in the absence or unavailability of the president. To serve only upon the issuance of notification from the president which will also be given to the board Unit Director.
- (c) Secretary - who along with the board Unit Director shall be responsible for correspondence from the board and to execute all official documents which require the seal of the board to be affixed.

(5) Responsibilities of the board include, but are not limited to:

- (a) Adopt and revise rules and regulations as may be necessary to carry out its powers and duties.
- (b) Adopt and/or administer examinations;
- (c) Examine for, deny, withhold, or approve the license of applicants and renew licenses;
- (d) Appoint designee(s) to assist in the performance of its duties, (i.e., examination proctors); and
- (e) Conduct hearings.

(6) Board Conflict of Interests - Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact in writing, and shall not vote upon such matter.

(7) The board shall not delegate its authority to select aboard consultant who shall serve as a consultant to the Division and who is vested with the authority to do the following acts:

- (a) Meet with the Board attorney to review complaints received against licensees.
- (b) Acting in concert with the attorney to send warning letters of a non-disciplinary nature to licensees, where appropriate, and close complaint files determined by the consultant and the attorney not to constitute violations of the practice act.

(Rule 0260-2-.19, continued)

- (c) Recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.
 - (d) Recommend whether and/or what terms a disciplinary action might be settled. Any disciplinary matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the full board before it becomes effective.
 - (e) Undertake any other matter authorized by a majority vote of the board.
- (8) Records and Complaints
 - (a) All requests, applications, notices, other communications and correspondence shall be directed to the board's administrative office. Any requests or inquiries requiring a board decision or official board action, except documents relating to disciplinary actions or hearing request, must be received 14 days prior to a scheduled board meeting and will be retained in the board's administrative office and presented to the board at the board meeting.
 - (b) All records of the board, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the board's administrative office during normal business hours.
 - (c) Copies of public records shall be provided to any person upon payment of the cost of copying.
 - (d) Complaints made against a licensee become public information only upon the filing of a notice of charges by the Department of Health.
 - (e) All complaints should be directed to the Investigations Section of Health Related Boards.
- (9) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-1-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division.

Declaratory Order Petition forms can be obtained from the Board's administrative office.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-223, 4-5-224, 63-1-117, 63-4-102, 63-4-103, 63-4-104, 63-4-106, 63-4-114, 63-4-115, and Public Chapter 618 of the Public Acts 2000. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed November 22, 1999; effective February 5, 2000. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed August 26, 2002; effective November 9, 2002.

0260-2-.20 ADVERTISING.

- (1) Policy Statement. The lack of sophistication on the part of many members of the public concerning chiropractic services, the importance of the interests affected by the choice of a chiropractic physician and the foreseeable consequence of unrestricted advertising by chiropractic physicians, which is recognized to pose special possibilities for deception, require that special care be taken by chiropractic physicians to avoid misleading the public. The chiropractic physician must be mindful that advertising by chiropractic physicians is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.

(Rule 0260-2-.20, continued)

(2) Definitions.

- (a) Advertisement - Informational communication, as further defined in rule 0260-2-.01 (1), to the public in any manner designed to attract public attention to the practice of a chiropractic physician who is licensed to practice in Tennessee.
- (b) Material Fact. Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his own particular needs.
- (c) Bait and Switch Advertising. An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise, in order to sell something usually at a higher fee or on a basis more advantageous to the advertiser.
- (d) Discounted Fee shall mean a fee offered or charged by a person or organization for any product or service that is less than the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee."

(3) Advertising Fees and Services.

- (a) Fixed Fees. Fixed fees may be advertised for any service. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professionally recognized components within generally accepted standards that are required to complete the service.
- (b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
- (c) Discount Fees. Discount fees may be advertised if
 - 1. The discount fee in fact is lower than the licensee's customary or usual fee charge for the service; and
 - 2. the licensee provided the same quality and components of service and material at the discounted fee that are normally provided at the regular non-discounted fee for that service.
- (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised service for which additional fees will be charged must be identified as such in any advertisement.
- (e) Time Period of Advertised Fees. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time.
 - 1. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services are actually rendered or completed within that time.

(Rule 0260-2-.20, continued)

- (4) Advertising Content. The following acts or omissions in the context of advertisement: by any licensee shall constitute unethical and unprofessional conduct, and subject the licensee to disciplinary action pursuant to T.C.A. §63-4-114.
 - (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
 - (b) The misleading use of an unearned or non-health degree in any advertisement.
 - (c) Promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform.
 - (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective patient.
 - (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
 - (f) The use of any personal testimonial attesting to a quality of competence of a service or treatment offered by a licensee that is not reasonably verifiable.
 - (g) Utilization of any statistical data or other information based on past performances or predication of future services, which creates an unjustified expectation about results that the licensee can achieve.
 - (h) The communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.
 - (i) Any misrepresentation of a material fact.
 - (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
 - (k) Statements concerning the benefits or other attributes of chiropractic procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and
 - 3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
 - (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
 - (m) Failure to comply with the rules governing advertisement of fees and services and advertising records.
 - (n) The use of "bait and switch" advertisements. Where the circumstances indicate "bait and switch" advertising, the Board may require the licensee to furnish to the board or its designee data or other evidence pertaining to those sales at the advertised fee as well as other sales.

(Rule 0260-2-.20, continued)

- (o) Misrepresentation of a licensee's credentials, training, experience or ability.
 - (p) Failure to include the corporation, partnership or individual licensee's name and address and telephone number in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 - 1. Upon request provide a list of all licensees practicing at that location; and
 - 2. Maintain and conspicuously display at the licensee's office, a directory listing all licensees practicing at that location.
 - (q) Failure to disclose that fact of giving compensation or anything of value to representatives of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.
 - (r) After thirty (30) days, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
 - (s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.
 - (t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.
- (5) Advertising Records and Responsibility.
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
 - (b) Any and all advertisements are presumed to have been approved by the licensee named therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the board or its designee.
 - (d) Severability. It is hereby declared that the sections, clauses, sentences and parts of these rules are severable, are not matters of mutual essential inducement, and any of them shall be excinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reasons be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause, sentence or part in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

(Rule 0260-2-.20, continued)

- (6) Telemarketing.
 - (a) Telemarketing or telephonic solicitation by licensees, their employees, or agents to victims of accidents or disaster shall be considered unethical if carried out within thirty (30) days of the accident or disaster, and subject the licensee to disciplinary action pursuant to T.C.A. § 63-4-114.
 - (b) Telemarketing transcripts shall be maintained for a period of two (2) years following their utilization.
 - (c) A log of contacts must be maintained for a period of two (2) years following the telemarketing encounter.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-114 and 63-4-122. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed November 22, 1999; effective February 5, 2000.

0260-2-.21 CHIROPRACTIC PRECEPTOR PROGRAM.

- (1) Application for Preceptor Program

An application will be considered by the board or its designee, based upon;

 - (a) If the preceptor named in the application is in good standing with the board.
 - (b) If the application for the chiropractic preceptor program includes an intern/extern whom is serving his/her internship with a chiropractic college accredited by the Council on Chiropractic Education (CCE), registered with the Commission on Accreditation of the U.S. Department of Education.
- (2) Conditions for Practice Under a Preceptor Program
 - (a) The conditions for practice are the same as for a temporary licensee, as outlined in rule 0260-2-.14(2) and (3), additionally;
 - (b) The preceptor program will be discontinued upon graduation of the intern/extern, however, if the graduate has completed the application for licensure in this state and upon filing an application for temporary license, when approved, including the payment of the fee in accordance with rule 0260-2-.14(1), may continue, practicing as a temporary licensee.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-107, 63-4-108, 63-4-120, and 63-4-121. **Administrative History:** Original rule filed December 28, 1995; effective March 12, 1996.

0260-2-.22 SUBSTANTIATION OF SERVICES. It is intended that these procedures are the accepted standard(s) and anything less than this shall be considered unprofessional and unethical conduct in the practice of chiropractic and may subject a licensee to disciplinary action pursuant to T.C.A. §63-4-114 (4).

- (1) These standards apply to all licensed chiropractic physicians. These standards also apply to those examinations advertised at a reduced fee or free (no charge) services.
- (2) Adequate patient records shall be legibly maintained.

(Rule 0260-2-22, continued)

- (3) Initial and follow-up services (daily records) shall consist of documentation to justify care.
- (4) If abbreviations or symbols are used in the daily recordkeeping, a key must be provided.
- (5) All patient records shall include but not be limited to:
 - (a) patient history
 - (b) subjective/objective findings
 - (c) examination
 - (d) diagnosis
 - (e) treatment,
 - (f) and reevaluation or referral.
- (6) In any disciplinary action against a chiropractic physician for any reason, the Board shall apply these minimal clinical standards.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-106, and 63-4-114. **Administrative History:** Original rule filed February 12, 1996; effective April 27, 1996.

0260-2-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS

- (1) Malpractice Reporting Requirements - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the “Health Care Consumer Right-To-Know Act of 1998” shall be set by statute, as provided in Public Chapter 373 of the Public Acts of 1999.
- (2) Criminal Conviction Reporting Requirements - For purposes of the “Health Care Consumer Right-To-Know Act of 1998, the following criminal convictions must be reported:
 - (a) Conviction of any felony; and
 - (b) Conviction or adjudication of guilt of any misdemeanor within the most recent ten (10) years, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 - 1. Sex.
 - 2. Alcohol or drugs.
 - 3. Physical injury or threat of injury to any person.
 - 4. Abuse or neglect of any minor, spouse or the elderly.
 - 5. Fraud or theft.

(Rule 0260-2-.23, continued)

- (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-51-101, *et seq.*, and Public Chapter 373 of the Public Acts of 1999. **Administrative History:** Original rule 0260-2-.23 filed March 14, 2000; effective May 28, 2000.